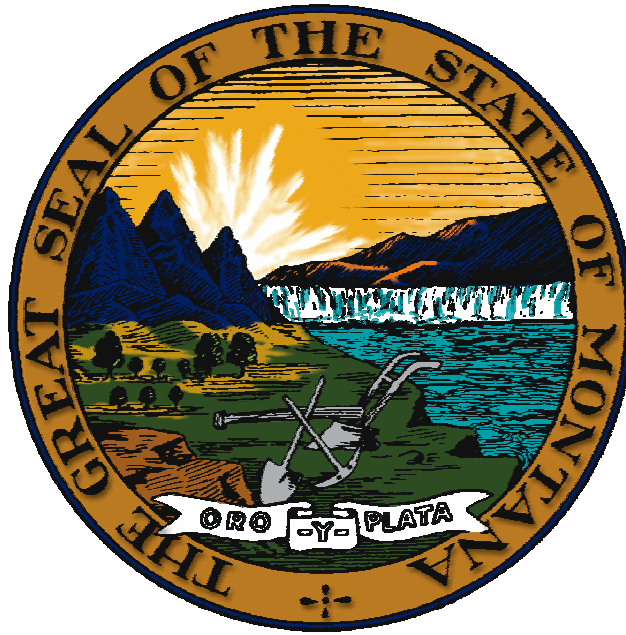


# 2003 Montana HAVA Plan Amendments - 2008



HELP AMERICA VOTE ACT  
OF 2002 (HAVA)

June 13, 2008

MONTANA SECRETARY OF STATE  
BRAD JOHNSON

## **Introduction**

Section 12 of the Help America Vote Act (HAVA) of 2002 describes the material changes required to the State Plan filed in 2003, as required by Section 254(a)(12). Specifically Section 12 describes the progress that the State of Montana has made with regard to the State Plan and Amended State Plan filed with the U. S. Federal Elections Commission.

## **Amended State Plan Requirement**

**Section 12** In the case of a State with a State plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for such previous fiscal year.

The following information is amendments to the 2003 State Plan and 2005 Amendments categorized by the specific HAVA requirement.

**(1) How the State will use the requirements payment to meet the requirements of Title III, and, if applicable under Section 251(a)(2), to carry out other activities to improve the administration of elections.**

Voting System Standards		
HAVA Requirement	State of Montana's Current Status	Planned Action
Allow voter to change or correct any error on the ballot before casting the vote.	Meets the requirement.	Continue state and county voter education campaign addressing proper ways to fill in ovals and the effects of overvotes and undervotes.
	All Montana polling places allow replacement ballots to be issued for voters to change or correct any error on the ballot before casting the vote.	
	All Montana counties allow replacement ballots to be issued for changes or corrections to absentee ballots before casting the vote.	Instructions will continue to be printed on the ballot about changing and correcting mail-in absentee ballots.
Prevent or alert voter if overvotes are detected on the ballot.	Meets the requirement.	Continue state and county voter education campaign addressing the effects of casting an overvote.
	Voter assistance terminals that prevent or alert voters about overvotes detected are available at every Montana polling place and optical-scan tabulators are available at select polling places.	
	Mail-in absentee ballot instructions have been updated to include ballot correcting instructions.	Continue state and county voter education campaign addressing the effects of casting an overvote.

HAVA Requirement	State of Montana's Current Status	Planned Action
All voting systems must be able to produce a paper audit trail of all votes cast.	Meets the Requirement.  MCA 13-17-103 (1)(k) Required specifications for voting systems.	No action needed.
Voting systems must be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in the manner that provides the same opportunity for privacy and independence as other voters. The requirement may be met by having at least one DRE or other system equipped for individuals with disabilities at each polling site.	Meets the Requirement.  Every Montana polling place is equipped with at least one voter assistance terminal to assist voters with disabilities, primarily the blind and visually impaired.	No action needed.
A uniform definition of what constitutes a vote for each voting system in use in the state.	Meets the Requirement  MCA 13-15-206 Counting votes – uniformity – rulemaking – definitions.	No action needed.

Provisional Voting and Voting Information Requirements		
HAVA Requirement	State of Montana's Current Status	Planned Action
A provisional voter is to be allowed to vote a paper ballot or an electronic ballot upon the completion of an affidavit. The ballot will be sealed in an envelope or electronically stored separately from the regular votes. The provisional ballot is to be transported to the county board of elections for determination of eligibility and possible counting if the voter is deemed eligible.	Meets the requirement.  MCA 13-13-601 Provisional voting in person.  MCA 13-13-602 Fail-safe and provisional voting by mail.  MCA 13-15-107 Handling and counting provisional and challenged ballots.	No action needed.
Each voter who casts a provisional vote shall be given written information on how they can ascertain whether their vote was counted, and if not, why.	Meets the requirement.  13-13-601(1)(a) Provisional voting in person.  A voter is given required information before being given a ballot and is notified.	No action needed.

HAVA Requirement	State of Montana's Current Status	Planned Action
Establish a free access system, such as toll-free phone number or internet website, allowing provisional voters to ascertain whether their vote was counted, and if not, why.	Meets the requirement.  MCA 13-15-107(4) Handling and counting provisional and challenged ballots.  Provisional voters may call the toll-free Voter Information Hotline or contact their county election office to verify whether their vote was counted, additionally each county office must notify the elector of their vote was counted, and if not, why.	No action needed.
Post information regarding the day of the election and polling hours.	Meets the requirement.  MCA 13-13-112 Display of instructions for electors.	Continue distributing uniform information posters for every county polling place.
Post instructions on how to vote including how to cast a provisional vote.	Meets the requirement.  MCA 13-13-112 Display of instructions for electors.	Continue distributing uniform information posters for every county polling place.
Post general information on state and federal voting rights and the right to a provisional vote if they meet the requirements to vote.	Meets the requirement.  MCA 13-13-112 Display of instructions for electors.	Continue distributing uniform information posters for every county polling place.
Post general information on federal and state laws prohibiting acts of fraud and misrepresentation.	Meets the requirement. MCA 13-13-113 Warning notice to be posted. MCA 13-37-131 Misrepresentation of voting record -- political civil libel.	Continue distributing uniform information posters for every county polling place.
Any voter who casts a vote as the result of a federal or state court order extending polling hours, shall do so on a provisional ballot, and it shall be kept separate from other provisional ballots.	Meets the requirement.  13-15-107 Handling and counting provisional and challenged ballots.	No action needed.

**(2) How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in paragraph (1), including a description of -**

- A) The criteria to be used to determine the eligibility of such units or entities for receiving the payment; and**
- B) The methods to be used by the state to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under paragraph (8).**

Consistent with the 2003 State Plan, the Secretary of State manages the distribution of HAVA funding to the 56 county election offices established in Montana law. The state remains responsible for accounting of all expenditures, funding levels, program controls, and outcomes of HAVA funds in accordance with federal law.

HAVA funds are distributed based on availability and priority described in the Preliminary State Plan. The Secretary of State measures county performance through extensive reports, surveys, and audits. The Secretary of State also ensures performance goals set in Section 8 are met by directly purchasing approved materials, reimbursing counties for approved expenditures, and providing grants to counties for specific uses. In summary, the state will expend the funds at the state level with little cost, if any, to the counties.

Requirements payment used to purchase and upgrade Montana's voting systems:

Action	Amount
Replace punch card voting systems in six counties	\$360,000
Purchase , one per polling place, voting systems accessible for individuals with disabilities including the blind and visually impaired	\$3,150,000
Match half of the optical scan hardware costs for counties choosing to purchase voting systems that meet the HAVA overvote notification requirement	\$932,500

**(3) How the State will provide for programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of Title III.**

#### **Voter Education**

The Secretary of State actively pursues the voter education efforts detailed in the 2003 State Plan. Television, radio, and newsprint reach the largest audience and are utilized preceding federal elections to inform voters about the provisions of HAVA. Voter Information Pamphlets that include HAVA information are mailed to every voting household in Montana before federal general elections. Community based education efforts such as booths at county fairs, outdoors shows, and home shows provide voters with the chance to learn about HAVA provisions and Montana's voting systems. Voter education among Montana's youth is encouraged and supported by the Secretary of State. Youth vote activities include visiting school, encouraging college students poll worker recruitment, and supporting mock elections within Montana's schools.

Voter education expenditures summary:

Mechanism	Expenditures to date	Funding Source
Television, radio, newsprint, Internet	\$597,822	HAVA
	\$526,093	Secretary of State
Production and distribution of the Voter Information Pamphlet	\$0	HAVA
	100%	Secretary of State
Education and Training	\$1,551,983	HAVA
	\$30,065	Secretary of State

**Election Administrator education and training**

Bi-annual workshops provide Montana's county election administrators with training on numerous topics including accessibility, voting systems, federal and state election laws. Agendas also cover timely election issues. Starting in 2007 the Secretary of State visited every county in Montana to improve communication between the state and county election offices on HAVA funding issues. The listening tour provided each county election administrator, county commissioners, staff and other interested parties with a one-on-one with the Secretary of State and staff to discuss election concerns and the direction of Montana's elections. The Montana Election and Technology Advisory Council, commissioned by the Secretary of State, gathers regionally appointed county election administrators to provide advice to the Secretary of State and assist counties with help regarding election and statewide voter database matters.

**Poll worker training**

The Secretary of State is continually improving the quality of poll worker training in Montana. In addition to providing the election judge handbook, the Secretary of State provided in-depth in-person poll worker training to counties requesting training assistance. In addition to one-on-one training, the Secretary of State has made poll worker training, recruitment, and retention a main election administrator workshop and regional training topic. The Secretary of State also provides necessary information for college student poll worker recruitment. Instructional videos address the use of voting systems by persons with disabilities and the general public. In collaboration with the Secretary of State's office, Disability Rights Montana conducts poll worker training for persons with disabilities and those assisting voters with disabilities.

2007 Election Administrator Workshop presentations and training topics:

Voting system vendor presentation	Commissioner of Political Practices presentation
United States Postal Service presentation	Election law update and review
Statewide voter database training	Polling place accessibility presentation
Absentee voting presentation	HAVA audit timetable and update
Voter database security training	Late registration question and answer
Election administrator scenarios	Provisional ballot update and training
Ballot and voting system security	County canvass procedures
Election judge recruitment and retention	Election night boards

2008 Regional County Training materials and topics:

ES&S Model 650 training	Statewide petition training
ES&S Model 150 training	Polling place checklist
ES&S AutoMARK training	Election night boards
Voting system testing and security	County canvass procedures
ES&S Unity online training	Election judge recruitment and retention
Statewide voter database training	Provisional ballot procedures
Voter and late voter registration training	Absentee ballot process training

2008 Election Judge Training topics:

Election judge qualifications	Polling place accessibility
Conduct of an election judge	Security procedures
Types of election judges and duties	Voting system setup and operation
Provisional voting	Poll watchers and petition gathers
Elector Identification	Spoiled ballots
Curb-side voting	Electioneering
Poll book reconciliation	Closing the polls

**(4) How the State will adopt voting system guidelines and processes which are consistent with the requirements of Section 301.**

Montana's voting systems are consistent with HAVA voting system requirements by using voter assistance terminals, optical scan precinct tabulators, and/or county conducting voter education campaigns. Section 1 describes how each voting system used in Montana meets HAVA requirements.

Montana has incorporated applicable HAVA voting system requirements in state certification testing and is adding applicable voluntary voting system guidelines approved by the Elections Assistance Commission to current procedures, guidelines, and processes as necessary. Through the Secretary of State's rule making authority granted in 2003 legislation, language has been adopted on what constitutes a vote and whether a vote is counted.

Summary of Montana Voting Systems in Use (2008 Figures)

Election Day Voting Systems	<p>All 56 counties provide Elections Systems &amp; Software AutoMARK voter assistance terminals</p> <p>19 counties have Elections System &amp; Software Model 650 optical scan central count tabulators</p> <p>29 counties have Elections System &amp; Software Model 100 optical scan tabulators</p> <p>4 counties have Elections System &amp; Software Model 150 optical scan tabulators</p> <p>2 counties have Elections System &amp; Software Optech IV-C 200 Eagle and Eagle Optech III-PE optical scan tabulators</p>
Absentee Voting Systems	<p>44 counties have optical scan tabulation equipment</p> <p>Absentees are counted on Election Day</p> <p>56 counties provide voter assistance terminals</p> <p>Absentees are counted on Election Day</p>

**(5) How the State will establish a fund described in subSection (b) (Elections Fund) for purposes of administering the State's activities under this part, including information on fund management.**

House Bill 548, passed by the 2003 Montana Legislature and signed into law by the Governor creates a special federal revenue account to the credit of the Secretary of State. The Secretary of State shall be the single signing authority for administration of these funds, in compliance with HAVA. There is no appropriation identified with this legislation. It simply creates a mechanism to receive money. Funds will be spent in accordance with state and federal law.

**(6) The State's proposed budget for activities under this part, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on**

- (A) the costs of the activities required to be carried out to meet the requirements of Title III;**
- (B) the portion of the requirements payment which will be used to carry out activities to meet such requirements; and**
- (C) the portion of the requirements payment which will be used to carry out other activities.**

Since the allocation of HAVA funds in June 2003, Montana has received \$16,596,803 and has spent approximately \$13,116,000 through May 2008 to meet HAVA requirements. These funds have generated just over \$900,000 in interest bringing Montana's current fund balance to just under \$3,500,000 at the beginning of May 2008. With Congress's decision to provide 2008 Requirements Payments, Montana will receive an additional \$575,000 that is subject to HAVA match requirements. The federal 5% match requires state and county provide a match of approximately \$600,000. Remaining HAVA funds, interest, and the 2008 Requirements Payment will be spent on meeting HAVA Title III requirements.

Summary of HAVA Funds: May 15, 2008

Federal Funds Received	\$16,596,803
Federal Funds Spent	(\$14,046,261)
Interest Accrued	\$918,691
Total Remaining Funds Plus Interest	<b>\$3,469,233</b>

**Voting System Standards**

Montana currently meets voting system standards required in HAVA Section 301. The Secretary of State will continue to pursue a statewide voter education campaign to inform voters about the effects of casting overvotes and about replacement ballots. The state plans to spend \$600,000 of remaining HAVA funds to match half of the county precinct counter hardware costs and \$75,000 of the 2008 Requirements Payment for voter education activities.

**Provisional Voting and Voting Information Requirements**

Voters in Montana may cast a provisional ballot, consistent with HAVA Section 302 requirements, and check if the ballot was counted or not. The Secretary of State prints and distributes Voter Information and Warning posters to each county for polling place posting and display. Provisional and voter information poster expenses are approximately \$10,000 and are provided by state funds.



### **Computerized Statewide Voter Registration Requirements**

The Montana statewide voter registration database meets HAVA Section 303 requirements. The Secretary of State expects \$1,154,000 of existing HAVA funds will be allocated for the ongoing management and maintenance of the registration database. Voter registration requirements meet HAVA Section 303 standards as allowed in the HAVA Section 304 minimum requirement language.

Summary of Title III activities, costs, and 2008 Requirements Payment:

Title III Activities	Expected Expenses	2008 Requirements Payment Allocation
Voting System and Security	\$688,000	\$75,000
Provisional Information and Judges	\$122,000	\$0
Statewide Voter Database and Misc.	\$1,154,000	\$500,000
Voters Who Register By Mail	\$0	\$0
<b>TOTAL</b>	<b>\$1,964,000</b>	<b>\$575,000</b>

In addition to fulfilling HAVA Title III requirements, the Secretary of State provides \$280,000 HAVA funds for counties to implement additional security measures, \$112,000 for hiring provisional ballot judges, and \$208,000 to conduct preventative maintenance on accessible voting systems. Counties must submit a narrative and/or proper documentation indicating intended or full performance of funding requirements.

The Secretary of State will continue to provide polling place accessibility improvement grants and HAVA compliant precinct counter grants to counties. The Secretary of State estimates \$715,000 in polling place accessibility grants and \$600,000 in precinct counter grants, in addition to the 2008 requirements payment, will be required to fund future applications. Previous polling place expenditures are listed below.

Polling place accessibility grants by calendar year:

2003	\$0.00
2004	\$138,356
2005	\$16,982
2006	\$494,698
2007	\$111,756
2008 (May)	\$77,633
<b>Total</b>	<b>\$839,425</b>
On-going accessibility	\$715,000

Administrative, electronic voter database, election training, and voter education campaign expenses have partially been paid for with state sources since the implementation of HAVA. The Secretary of State plans to continue absorbing these costs in state and county budgets as HAVA funding begins to taper off. New and ongoing activities along with anticipated cost are listed below.

Summary of Montana's budget for ongoing activities

Proposed State Budget	Expected Expenses	2008 Requirements Payment Allocation
Polling Place Accessibility	\$715,000	
Provisional Information and Judges	\$112,000	
Voter Education, Election Official, and Poll Worker Training	\$600,000	
Statewide Voter Database and Misc.	\$1,154,000	\$500,000
Voting Systems and Security	\$688,000	\$75,000
Administration	\$200,000	
<b>TOTAL</b>	<b>\$3,469,000</b>	<b>\$575,000</b>

**(7) How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.**

Consistent with EAC Maintenance of Effort Funding Advisories, the Secretary of State has maintained expenditure levels set by state fiscal year ending prior to November 2000. State election expenditures remain consistent at just over \$350,000. County governments have seen the largest elections expenditure growth since 2000. In 2000, it is projected that counties alone spent just under \$1,000,000 for the entire election year and are now averaging nearly \$1.5 million for each election during the 2006. A summary of the state and county expenditures are listed below.

State and county election costs by year

Entity	Year	Expenditure
Secretary of State	2000	<i>\$300,000</i>
	2001	<i>\$240,000</i>
	2002	<i>\$280,000</i>
	2003	<i>\$330,000</i>
	2004	<i>\$343,919</i>
	2005	<i>\$379,376</i>
	2006	<i>\$303,940</i>
	2007	<i>\$1,131,391 (voting systems)</i>
	2008 (5/6 <sup>th</sup> of year)	<i>\$342,947</i>
County Governments	2000	<i>\$800,000</i>
	2002	<i>\$884,099</i>
	2004	<i>\$1,527,110</i>
	2006	<i>\$1,494,135 – Primary \$1,623,591 – General</i>

\*Estimates are in *Italics*

**(8) How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the process used to develop such criteria, and a description of which official is to be held responsible for ensuring that each performance goal is met.**

### **Performance Goals**

Montana's primary goal is to achieve compliance with HAVA through successful implementation of the programs outlined in the State Plan and Amendments. Following is an updated description of the timetable for meeting each goal of the 2003 State Plan and the title of the official responsible for ensuring such goal is met.

Summary of the updated performance goals and measures:

Goal	Official Responsible	Updated Timetable
Develop State Plan	Secretary of State	Completed – June 2004
Administrative Complaint Procedure	Secretary of State	Completed – January 2004
Elimination of punch card voting systems	Secretary of State County Election Administrators	Purchased – February 2004
Accessible Voting Systems	Secretary of State County Election Administrators	Purchased – May 2006 (extension granted)
Centralized Statewide Voter Management System	Secretary of State	Installed – November 2004
Provisional Ballots	Secretary of State County Election Administrators	Provided – January 2004
Voter Education, Election Official and Poll Worker Training	Secretary of State County Election Administrators	Ongoing
Poling Place Accessibility	County Election Administrators	Ongoing
Voting System Security and Standards	Secretary of State County Election Administrators	Ongoing

### **Performance Measurers**

The Secretary of State, Election and Technology Advisory Council, and county election administrators will work closely together to review efficiency and integrity of the Montana election process.

**(9) A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under Section 402.**

Utilizing the rule making authority bestowed in the Secretary of State, HAVA administrative complaint procedures have been placed in Administrative Rules (ARM 44.3.2601). The Montana Administrative Complaint Procedure provides a uniform nondiscriminatory process for the resolution of complaints alleging a violation of any provision of HAVA. Any person who believes a violation has occurred, is occurring, or is about to occur during a federal election may file a complaint with the Secretary of State. The complaint must be on the prescribed form, signed, sworn, and notarized. HAVA allows for alternative dispute resolution if a timely decision is not made.

**(10) If the State received any payment under title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.**

The State of Montana received \$5,000,000 in Title I funds. Section 101 funds have been used for the following items: prepare/implement the State Plan, replace punch card voting systems, statewide voter education campaigns, polling place accessibility grants, and election official training. \$2,326,539 Title I funds have been spent, including interest \$3,109,993 remains to be spent on new and ongoing activities. New activities include security grants and providing provisional ballot judges to counties.

**(11) How the State will conduct ongoing management of the plan except that the State may not make any material change in the administration of the plan unless the change**

- (A) is developed and published in the Federal Register in accordance with Section 255 in the same manner as the State plan;**
- (B) is subject to public notice and comment in accordance with Section 256 in the same manner as the State Plan; and**
- (C) takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register in accordance with subparagraph (A).**

The Secretary of State will monitor the ongoing activities set in the State Plan. If the Secretary of State determines the State Plan requires material change, the Secretary of State will prepare recommended changes, meet the HAVA public notice and comment period, and publish changes to the State Plan in the Federal Register upon submitting the revised plan to the U.S. Election Assistance Commission.

**(12) In the case of a State with a State Plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the State Plan for the previous fiscal year and of how the State succeeded in carrying out the State Plan for such previous fiscal year.**

Each Section has been updated accordingly and reflects changes to the 2003 State Plan and as amended in 2005. The Montana Secretary of State will submit the amendments to the State Plan for publication in the Federal Register.

**(13) A description of the committee which participated in the development of the State plan in accordance with Section 255 and the procedures followed by the committee under such Section and Section 256.**

No changes have been made to the committed appointed to develop the Preliminary State Plan. A list of the members of the Montana Election Reform Advisory Committee is in the 2003 State Plan.